

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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JOHN DOE,

Plaintiff,

v.

**ORDER**

Civil File No. 11-2561 (MJD/SER)

CEMSTONE PRODUCTS CO. and,  
CONCRETE PRODUCTS HEALTH  
AND WELFARE PLAN,

Defendants.

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Thomas E. Glennon, Thomas E. Glennon, P.A., Counsel for Plaintiff.

George R. Wood, Littler Mendelson, PC, Counsel for Defendant Cemstone Products Co.

Molly R. Hamilton and Terrance J. Wagener, Messerli & Kramer, P.A., Counsel for Defendant Concrete Products Health and Welfare Plan.

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The above-entitled matter comes before the Court on Plaintiff John Doe's objections to Magistrate Judge Steven E. Rau's June 7, 2012 Order granting in part and denying in party Plaintiff's Motion for Leave of Court to Amend Complaint.

This Court will reverse a magistrate judge's order on a nondispositive issue if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); D. Minn. L.R. 72.2(a). The Court has reviewed the submissions and the record in this case and concludes that Magistrate Judge Rau's June 7 Order is neither clearly erroneous nor contrary to law. Therefore, the June 7 Order is affirmed. The Court further notes that Magistrate Judge Rau allowed all requested factual amendments to the Complaint and that ERISA provides causes of action for interference with ERISA benefits and for misrepresentation by fiduciaries. See, e.g., 29 U.S.C. § 1140; Varity Corp. v. Howe, 516 U.S. 489, 505-07 (1996); Libel v. Adventure Lands of America, Inc., 482 F.3d 1028, 1034-35 (8th Cir. 2007).

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. United States Magistrate Judge Steven E. Rau's June 7, 2012 Order [Docket No. 43] is **AFFIRMED**.
2. Plaintiff's objection to that order [Docket No. 46] is **OVERRULED**.

Dated: September 4, 2012

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court